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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,886	03/04/2002	Kimiyo Banno	0171-0828P	1884
2292	7590	10/28/2003	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			YUAN, DAH WEI D	
			ART UNIT	PAPER NUMBER
			1745	

DATE MAILED: 10/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

4 KB

**Office Action Summary**

Applicati n No.

10/086,886

Applicant(s)

BANNO ET AL.

Examiner

Dah-Wei D. Yuan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 is/are allowed.
- 6) ☒ Claim(s) 1-6, 8 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**PREGEL COMPOSITIONS FOR POLYMER GEL ELECTROLYTES, METHOD OF  
DEHYDRATING PREGEL COMPOSITIONS, SECONDARY CELL, AND  
ELECTRICAL DOUBLE-LAYER CAPACITOR**

Examiner: Yuan

S.N. 10/086,886

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October 21, 2003

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

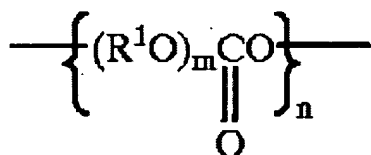
A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

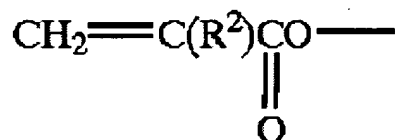
2. Claims 1-6,8,9 are rejected under 35 U.S.C. 102(e) as being anticipated by Takeuchi et al. (US 6,190,805).

With respect to claims 1,2, Takeuchi et al. teach a photopolymerizable electrolyte composition comprising an electrolyte salt and a non-aqueous solvent. Specific examples of the polymer compound include a polymer of polymerizable compound which contains a poly- or oligo-carbonate group represented by the general formula (1) and a polymerizable functional group represented by the general formula (2) and/or formula (3). The moisture content of the resulting polymer electrolyte film is less than 1,000 ppm. See Column 15, Line 7 to Column 16, Line 14; Examples 8, 12,1315.

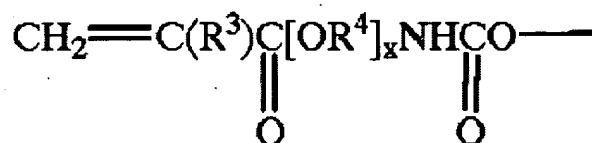
(1)



(2)



(3)



With respect to claim 3,4, Takeuchi et al. teach the polymer compound may be a homopolymer, a copolymer of two or more compounds belonging to the same category or a copolymer of at least one of the polymerizable compounds with another polymerizable compound. These compounds include (meth)acrylic acid alkyl esters, urethane (meth)acrylates and acrylic acid esters and/or urethane (meth)acrylates having an oxyalkylene and/or oxyfluorocarbon chain. See Column 15, Line 7 to Column 16, Line 14; Column 19, Lines 24-53.

With respect to claim 5, Takeuchi et al. teach the polymer compounds comprising one having a hydroxyl group and one having the formula (3) in which the urethane group is replaced with isocyanate group. See Column 16, Lines 9-65.

With respect to claim 6, Takeuchi et al. teach the use of ethyl methyl carbonate as an organic solvent (entrainer). See Example 8. Moreover, it is noted that the claim is a product-by-process claim. "Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F. 2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

With respect to claim 8, Takeuchi et al. teach the polymer electrolyte can be used in a primary or secondary battery. See Column 5, Lines 26-30.

With respect to claim 9, Takeuchi et al. teach the polymer electrolyte can be used in a double layer capacitor. See Column 5, Lines 31-35.

***Allowable Subject Matter***

3. Claim 7 is allowed. The following is a statement of reasons for the indication of allowable subject matter: The invention of independent claim 7 recites a method of dehydrating a pregel composition by subjecting the composition to azeotropic distillation in the presence of an entrainer. The moisture content of the pregel composition is lowered to not more than 1,000 ppm. The closest prior art of record, Takeuchi et al., does not teach or suggest the use of azeotropic distillation to reduce the moisture content in the pregel composition for an electrochemical device.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dah-Wei D. Yuan whose telephone number is (703) 308-0766. The examiner can normally be reached on Monday-Friday (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan, can be reached on (703) 308-2383. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Dah-Wei D. Yuan  
October 21, 2003

A handwritten signature in cursive script, appearing to read "Dah-Wei D. Yuan", followed by a long horizontal flourish.